SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok **Thursday, 22nd December, 2005** **No. 466**

GOVERNMENT OF SIKKIM
DEPARTMENT OF PERSONNEL, ADM. REFORMS, TRAINING, PUBLIC GRIEVANCES, CAREER OPTIONS & EMPLOYMENT, SKILL DEVELOPMENT AND CHIEF MINISTER'S SELF EMPLOYMENT SCHEME
GANGTOK - 737101.

No.230/GEN/DOP **Dated: 22. 12. 2005**

NOTIFICATION

In exercise of the powers conferred by section 27 of the Right to Information Act, 2005 (22 of 2005), the State Government hereby makes the following rules namely:-

1. **Short title and commencement** -

(1) These rules may be called the Sikkim State Right to Information (Regulation of Fee, Cost and Miscellaneous) Rules, 2005.

(2) They shall come into force on the date of their publication in the official Gazette.

2. **Definitions**:

(1) In this Rules, unless the context otherwise requires:

(a) "Act" means the Right to Information Act, 2005.

(b) "Section" means section of the Act.

(c) Appellate Authority refers to the officers appointed to hear first appeals under Section 19(1) of the Act.

(2) All other words and expressions used in these rules but not defined land defined in the Act shall have the same meanings assigned to them, in the Act.

3. There shall be a State Public Information Officer (P.I.O. for short) in each Department of the Government to perform the functions and discharge the responsibilities as provided under the Act. Such Public Information Officers shall not be below the rank of a Joint Secretary of the State Government.

4. (1) There shall be a State Assistant Public Information Officers (Asstt. P.I.O. for short) in every Sub-Division and the Districts of the State to be appointed by the State Government. Such Assistant Public Information Officers shall be from among the Gazetted Class – I or Class – II State Government Officers posted in the Sub-Division or the District levels.

The Assistant Public Information Officers should be such who is accessible and who the people would feel comfortable to approach.

(2) The official receipt for the fees shall be issued by the receiving State Assistant Public Information Officers.

Procedure for seeking information

5. **Applications:**

(1) A request for obtaining information under sub-section (1) of section 6 shall be made to the concerned State Public Information Officer in an application preferably in the form as given in Annexure "A" accompanied by an application fee of Rs.100/- by way of bank receipt to be deposited under Major Head 0070.OAS (E) RTI Fee. The competent Authority shall duly acknowledge the receipt of the application as provided in Annexure "B".

(2) Whatever form an application is received in, it shall include the following:

(i) Name, father's name, permanent address of the applicant;

(ii) Documentary proof of being a citizen of India. (Explanation: Certified copy of Sikkim Subject Certificate, certified copy of Certificate of Identification, Attested copy of Passport, certified copy of Electoral Roll will suffice for this purpose.)

(iii) An address to which notices and information can be sent;

(iv) The date the application is submitted;

(v) Subject matter of the information requested, including if relevant the period and/or geographic area to which the information relates;

(iv) Form of access preferred (optional).

(3) Where an electronic application is made, the applicant shall send a money order/cheque/demand draft to the PIO for the application fee or send a copy of a payment receipt either by post, fax, PDF or in person.

(4) The period of 30 days referred to in Sec. 7(1) shall be counted from the day the application fee is received by the public authority.

(5) If the information sought for does not fall within the jurisdiction of the State Public Information Officer he shall refer the application to such authority having jurisdiction over the matter within five days with intimation to the applicant advising him to contact such authority.

(4) The PIO shall ensure that all the records sought by the applicant are available for inspection, during the inspection.

(5) At the time of inspection, atleast one official should be present to follow inspection

(6) If the applicant desires to take copies of any parts of the records inspected by him or a sample of the work inspected by him, he/she may request such copies/samples without having to make an additional application **[or pay and additional application fee]** and the PIO shall provide such copies/samples within 5 days, subject to payment of any fees.

8. **Receiving and Acknowledging Applications**:

(1) In accordance with Sections 5(4) and 5(5), any officer in any public authority shall be under an obligation to receive an application for information under the Act.

(2) It will be the responsibility of any officer who receives an application for information under the Act to pass the application on to the relevant PIO or Assistant PIO as soon as possible and no later than 3 days from receiving the application, although the date of receipt for the purpose of the time limits in Sec. 7 shall be the date the application was initially received by the officer.

(3) The person who receives the application shall acknowledge the receipt of every application in writing. The receipt must include, at a minimum, the application reference no. the receiver's name, position, department/public body, the date the application was received and the date by which a response must be provided.

(4) Where an application is received by post, the date of receipt is taken to be the date the application is logged into the mail register of the Department or public body, whether or not that date is the same date the application is received by the PIO.

(5) Where an application is received electronically, the date of receipt is taken to be the date the application is sent to the Department or public body, whether or not that date is the same date the application is received by the PIO.

9. (1) **Fee for information**: For providing the information under sub-section (1) of section 7 and Rule 5 under these Rules, the fee shall be charged by way of bank receipt under Major Head 0070.OAS(E) RTI Fee payable to the public authority, at the following rates, namely:-

(A)	(a)	When the concerned department has already fixed the price of some documents, samples, model, maps, etc.	The price so fixed plus postal charges.

(6) If the requested information falls within the jurisdiction of the State Public Information Officer and/or in any one or more of the category of restrictions listed in Section 6 of the Act and Rule 6 of these rules, the State Public Information Officer, on being satisfied, will issue a rejection order in form Annexure 'C' within 30 days from the date of receipt of the application.

(7) If the requested information falls within the competent authority's jurisdiction but not in one or more of the categories listed in Section 6 of the Act or Rule 6 of these Rules, the State Public Information Officer, on being so satisfied shall supply the information to the applicant in the form Annexure 'D' in these Rules, falling within his jurisdiction. In case the information sought is partly outside the jurisdiction of the State Public Information Officer or partly falls in the categories listed in Section 6 of the Act or Rule 6 of these Rules, the State Public Information Officer shall supply only such information as is permissible under the Act and the Rules and is within his jurisdiction and reject the remaining part giving reasons thereof.

6. **Applications relating to life and liberty**:

(1) Where an application is made which purports to affect a person's life and liberty as referred to under Sec, 7(1), the applicant should note this clearly on the application and should include an explanation as to why the application should be expedited under this provision.

(2) Where Sec. 7(1) is invoked in respect of information relating to life and liberty, the PIO should examine the applicants application liberally, and should, when processing the request, apply the interpretation of the Act which is most beneficial to the applicant.

(3) For the purposes of applying Sec. 7(1), the PIO should at a minimum expedite an application where the information requested relates to a person's confinement, internment, arbitrary detention, imminent death at the hands of the State or another individual, torture or violation of due process rights.

7. **Applications for Samples or Inspection**:

(1) Where an application is made for taking a sample of inspecting a record or public works, the PIO shall intimate the date, time and venue when the applicant and/or his/her authorized representative(s) can obtain a sample or material or inspect information or works.

(2) In accordance with Sec. 7(1), the date for providing a sample and/or permitting inspection shall not exceed 30 days from the date of receipt of application, unless the applicant requests a later date for inspection.

(3) The sample shall be provided to the applicant in the same manner and following the same procedure as followed when the sample is taken by a vigilance or an investigation agency.

As far as possible, the sample shall be provided from the spot of applicant's choice indicated by the applicant on the spot.

(b) When the information is readily available, either by way of photocopying or by other way or by other way (copy).

(i) Rupees 10 (ten) for each page (in A-4 or A-3 size paper) created or copied plus postal charges, or

(ii) actual charge or cost price of a copy in large size paper plus postal charges.

(B) for inspection of records, no fee for the first hour, and a fee of rupees five for each fifteen minutes (or fraction thereof) thereafter:

Provided that no postal charges shall be charged if the applicant collects the information personally. Provided further that if on a particular day it is not administratively feasible the matter of inspection may be postponed.

10. For providing the information under sub-section (5) of section 7, the fee shall be charged by way of bank receipt payable to the public authority at the following rates-

(a) For information provided in printed form at the price fixed for such publication or rupees five per page of photocopy for extracts from the publication plus Postal charges. The above charges are to be accompanied by a bank receipt deposited under Major Head 0070.OAS (E) RTI Fee.

Provided that no postal charges shall be charged if the applicant collects the information personally.

11. On receipt of an application seeking information under Rule 3, the concerned State Public Information Officer shall consider as to whether:

(a) The Information sought for relates to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made under these rules and if such information is found to be more than 20 years from such date, the request shall not be entertained, and in any case the information sought for falling under clauses (b), (d) and (j) below shall not be furnished subject to the extent of permissibility provided therein;

(b) Disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(c) The information sought for has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(d) The disclosure of the information would cause a prejudice of privilege of Parliament or the State Legislature.

(e) The disclosure of the information including commercial, confidence, trade, secrets or intellectual property would harm the competition position of a third party, unless he is satisfied that larger public interest warrants the disclosure of such information.

(f) Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(g) Information received in confidence from foreign Government;

(h) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(i) Information which would impede the process of investigation or apprehension or prosecution of offenders;

(j) As to whether the information sought for is a decision/decisions of the Council of Ministers and in such case and if asked for, the reasons of such decision and the materials on the basis of which the decisions were taken only after the decision have been taken by the Council of Ministers and the decision making process is complete or over. However, if the decision of the Council of Ministers come under the exemption specified under sub-section (1) of Section 8 of the Act, 2005, and under this rule, such information shall not be disclosed.

(k) In any case, information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual, and shall not be disclosed if in larger public interest justifies the disclosure of such information.

While deciding the question as to what is larger public interest, the State Public Information Officer shall decide in his discretion by first deciding as to whether such information relates to personal information the disclosure of which has no relation to any public activity or interest and would amount to unwarranted invasion of privacy. But information which cannot be denied to the Parliament or the State Legislature shall not be denied to any person.

12. Appeal: Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by an order of the State Public Information Officer may, within thirty days from the date of receipt of the order of the State Public Information Officer, prefer an appeal to

the Law Secretary who shall be the Appellate Authority Under Section 19(1) of the Right to Information Act, 2005, which shall be accompanied by an appeal fee of Rs.100.00 (Rupees One Hundred) by way of bank receipt to be deposited under Major Head 0070.OAS(E)RTI Fee payable to the public authority with a copy of such order appealed against.

13. <u>Monitoring Applications and Appeals:</u>

(1) A register of applications received shall be maintained by each PIO and Assistant PIO. The register may be electronic or in hard copy. At a minimum, the register will note the following information:

(i) Application reference number;

(ii) Name of applicant;

(iii) Date of application;

(iv) Summary of applicant's request;

(v) Date response provided to applicant;

(vi) Where information was provided, summary of information provided;

(vii) Where application was rejected, specific clause relied upon and brief explanation of reasons;

(viii) Whether appeal filed and outcome;

(ix) Any additional remarks.

(2) At the end of every month, every PIO and Assistant PIO will provide a monthly report containing the information collected under sub-section (1) above to the Head of the public authority or his/her delegate.

(3) A register of appeals received shall be maintained by each Appellate Authority and Information Commission. At a minimum, the register will note the following information:-

(i) Application reference number;

(ii) Name of applicant:

(iii) Date of appeal;

(iv) Date response provided to applicant;

(v) Outcome of the appeal, including the provision(s) of the law being disputed, the interpretation of the provision(s) relied upon and a summary of the order passed;

(vi) Any additional remarks.

(4) At the end of every month, each Appellate Authority will provide a monthly report containing the information collected under sub-section (3) above to the Head of the Department or public body or his/her delegate.

(5) Within 14 days from the end of each month, the Head of the Department or public body or his/her delegate will collate all of the information received in accordance with sub-section (2) and (4) above and publish this information on the internet.

(6) Within 14 days from the end of the every month, each Information Commission will publish the information collected under sub-section (3) on the internet.

14. Any person aggrieved by an order of the appellate authority under sub-section (1) of section 19 may, within ninety days from the date of receipt of the order of the appellate authority, prefer a second appeal to the State Information Commission on plain paper in the format given in Annexure "F", which shall be accompanied by an appeal fee of Rs.100.00 (Rupees One Hundred) by way of bank receipt to be deposited under Major Head 0070.OAS (E) RTI Fee payable to the State Information Commission.

15. **Records Management**:

(1) In accordance with Sec. 4(1) of the Act, every public authority shall ensure that their records are computerized within a period of 3 years from the enactment of this Act.

(2) Every authority shall, immediately upon the enactment of this Act, make a time bound plan for achieving implanting Rule 14(1) above and said plan shall be made public. Every six months, the public authority shall publish a progress statement in respect of the plan.

C. L. SHARMA
SPECIAL SECRETARY TO THE GOVERNMENT OF SIKKIM
File No. M (140)/GEN/DOP

FORM 'A'
FORM OF APPLICATION FOR SEEKING INFORMATION
See Rule5(1)

I. D. No._____ - (For official use)

To

The State Public Information Officer,

_____

_____

1. Name of the Applicant:

2. Father's name :

3. Permanent address :

4. Temporary Address :

5. Whether a citizen of India:
(Please enclose your certified copy of either Sikkim Subject Certificate, Certificate of Identification, Electoral Roll or Passport as proof).

6. Whether affiliated to any NGO, Social Organization, Association, Political Organization etc. If so, the particulars of NGO, Organization, Association, Political Organization:

7. Concerned department:
Particulars of information –

   (i) Details of information required (please be specific by giving details)
   (ii) Period for which information asked for,
   (iii) The Geographical area to which the Information relates (with specified details)
   (iv) Other details.

4. I state that the information sought does not fall within the restrictions contained in Section 6 of the Act and to the best of my knowledge it pertains to your office.
5. A fee of Rs._____ has been deposited in the office of the Competent Authority vide No. _____ dated _____

Place:
Date:

Signature of the Applicant
Tel. No. (Office) _____
(Residence) _____

Note: (i) Please ensure that the Form A is complete in all respects and there is no ambiguity in providing the details of information required.

FORM 'B'
ACKNOWLDDGEMENT OF APPLCIATION
See Rule 5(1)

I.D.No._____ Date:_____

1. Received an application in Form A from Shri/Ms _____ resident of _____ under Section 5(1) of the Right to Information Act, 2005.

2. The information is proposed to be given normally within 30 days from the date of receipt of application and in case it is found that the information asked for cannot be supplied, the rejection letter shall be issued stating reason thereof.

3. The applicant is advised to contact the undersigned on _____ _____ between 11 A.M. to 1 P.M.

4. In case the applicant fails to turn up on the scheduled date(s), the Competent Authority shall not be responsible for delay, if any.

5. The applicant shall have to deposit the balance fee, if any, with the authorized person before collection of information.

6. The applicant may also consult Web-site of the department from time to time to ascertain the status of his application.

Dated_____

Signature and Stamp of the State
Public Information Officer.

Address: _____

_____

FORM 'C'
REJECTION ORDER
See Rule 5(1)(3)

From _____

No._____ Date: ___ _____

To

_____

_____

Sir/Madam,

Please refer to your application, I.D. No._____ dated _____ _____ addressed to the undersigned regarding supply of information on _____

2. The information asked for cannot be supplied due to following reasons:-

(i)

(ii)

3. As per Section 19(1) of Right to Information Act, 2005, you may file an appeal to the Law Secretary, Government of Sikkim, within 30 days of the issue of this order.

Yours faithfully,

State Public Information Officer.

Tel. No._____

FORM 'D'

FORM OF SUPPLY OF INFORMATION TO THE APPLICANT

See Rule 5(1) (D)

From_____

No._____ Date_____

To

_____

_____

Sir/Madam,

Please refer to your application, I.D.No._____ dated _____ addressed to the undersigned regarding supply of information on _____ _____.

2. The information asked for is enclosed for reference.*

(i)

(ii)

The remaining information about the other aspects cannot be supplied due to following reasons:-

(i)

(ii)

(iii)

3. The requested information does not fall within the jurisdiction of this Competent Authority.

4. As per Section 19(1) of Right to Information Act, 2005, you may file an appeal to the Law Secretary, Government of Sikkim, within 30 days from the date of issue of this order.

Yours faithfully,

State Public Information Officer.

Address:_____

Tel.No._____

ANNEXURE 'E'
See Rule 12.

Appeal under section 19(1) of the Right to Information Act, 2005.

From: _____
(Applicant's name and address).

To

_____
(Name/designation/address of the appellate authority)

1. Full name of the Appellant.

2. Address:

3. Particulars of the State Public Information Officer.

4. Date of receipt of the order appealed against (if order passed).

5. Last date for filing the appeal:

6. The grounds for appeal

7. Particulars of information.

i) Nature and subject matter of the information required.

(ii) Name of the Office or Department to which the information relates.

Place: **Signature of Appellant**

Date

Enclosed Bank B,.R,.No._____ dated _____ for Rs.50/-

ANNEXURE 'F'
See Rule 14.

Appeal under section 19(3) of the Right to Information Act, 2005

From:

_____
(Appellant's name and address)

To

_____
(Name/designation/address of the appellate authority)

1. Full name of the Appellant :
2. Address: :
3. Particulars of the State Public Information Officer :
4. Particulars of the First Appellate Authority. :
5. Date of receipt of the order appealed against.:
6. Last date for filing the appeal. :
7. The grounds for appeal. :
8. Particulars of information. :
   (i) Nature and subject matter Of the information required :
   (ii) Name of the Office or Department to which the Information relates. :

Place

Date:

Signature of Appellant

Enclosed Bank B.R.No._____ dated _____ for Rs.100/-